

Introduced by Senator Negrete McLeod

February 26, 2009

An act to amend Section 144 of, and to add Sections 144.5 and 144.6 to, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 389, as introduced, Negrete McLeod. Professions and vocations.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to suspend or revoke a license on various grounds, including, but not limited to, conviction of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law requires applicants to certain boards to provide a full set of fingerprints for the purpose of conducting criminal history record checks.

This bill would make that fingerprinting requirement applicable to the Dental Board of California, the Dental Hygiene Committee of California, the Professional Fiduciary Bureau, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, and the State Board of Chiropractic Examiners. The bill would require applicants for a license and, commencing January 1, 2011, licensees who have not previously submitted fingerprints, or for whom a record of the submission of fingerprints no longer exists, to successfully complete a state and federal level criminal offender record information search, as specified. The bill would require licensees to certify compliance with that requirement, as specified, and would subject a licensee to disciplinary action for making a false certification. The bill

would also require a licensee to, as a condition of renewal of the license, notify the board on the license renewal form if he or she has been convicted, as defined, of a felony or misdemeanor since his or her last renewal, or if this is the licensee's first renewal, since the initial license was issued.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 144 of the Business and Professions Code
2 is amended to read:

3 144. (a) Notwithstanding any other provision of law, an agency
4 designated in subdivision (b) shall require an applicant *for a license*
5 to furnish to the agency a full set of fingerprints for purposes of
6 conducting criminal history record checks *and shall require the*
7 *applicant to successfully complete a state and federal level criminal*
8 *offender record information search conducted through the*
9 *Department of Justice as provided in subdivision (c) or as*
10 *otherwise provided in this code.* ~~Any agency designated in~~
11 ~~subdivision (b) may obtain and receive, at its discretion, criminal~~
12 ~~history information from the Department of Justice and the United~~
13 ~~States Federal Bureau of Investigation.~~

14 (b) Subdivision (a) applies to the following:

- 15 (1) California Board of Accountancy.
- 16 (2) State Athletic Commission.
- 17 (3) Board of Behavioral Sciences.
- 18 (4) Court Reporters Board of California.
- 19 (5) State Board of Guide Dogs for the Blind.
- 20 (6) California State Board of Pharmacy.
- 21 (7) Board of Registered Nursing.
- 22 (8) Veterinary Medical Board.
- 23 (9) Registered Veterinary Technician Committee.
- 24 (10) Board of Vocational Nursing and Psychiatric Technicians.
- 25 (11) Respiratory Care Board of California.
- 26 (12) Hearing Aid Dispensers ~~Advisory Commission Bureau.~~
- 27 (13) Physical Therapy Board of California.
- 28 (14) Physician Assistant Committee of the Medical Board of
- 29 California.
- 30 (15) Speech-Language Pathology and Audiology Board.

- 1 (16) Medical Board of California.
- 2 (17) State Board of Optometry.
- 3 (18) Acupuncture Board.
- 4 (19) Cemetery and Funeral Bureau.
- 5 (20) Bureau of Security and Investigative Services.
- 6 (21) Division of Investigation.
- 7 (22) Board of Psychology.
- 8 (23) ~~The~~ California Board of Occupational Therapy.
- 9 (24) Structural Pest Control Board.
- 10 (25) Contractors' State License Board.
- 11 (26) Bureau of Naturopathic Medicine.
- 12 (27) *Dental Board of California.*
- 13 (28) *Dental Hygiene Committee of California.*
- 14 (27) *Professional Fiduciaries Bureau.*
- 15 (28) *California Board of Podiatric Medicine.*
- 16 (29) *Osteopathic Medical Board of California.*
- 17 (30) *State Board of Chiropractic Examiners.*

18 ~~(e) The provisions of paragraph (24) of subdivision (b) shall~~
 19 ~~become operative on July 1, 2004. The provisions of paragraph~~
 20 ~~(25) of subdivision (b) shall become operative on the date on which~~
 21 ~~sufficient funds are available for the Contractors' State License~~
 22 ~~Board and the Department of Justice to conduct a criminal history~~
 23 ~~record check pursuant to this section or on July 1, 2005, whichever~~
 24 ~~occurs first.~~

25 *(c) Except as otherwise provided in this code, each agency listed*
 26 *in subdivision (b) shall direct applicants for a license to submit to*
 27 *the Department of Justice fingerprint images and related*
 28 *information required by the Department of Justice for the purpose*
 29 *of obtaining information as to the existence and content of a state*
 30 *or federal criminal record. The Department of Justice shall forward*
 31 *the fingerprint images and related information received to the*
 32 *Federal Bureau of Investigation and request federal criminal*
 33 *history information. The Department of Justice shall compile and*
 34 *disseminate state and federal responses to the agency pursuant to*
 35 *subdivision (p) of Section 11105 of the Penal Code. The agency*
 36 *shall request from the Department of Justice subsequent arrest*
 37 *notification service, pursuant to Section 11105.2 of the Penal Code,*
 38 *for each person who submitted information pursuant to this*
 39 *subdivision. The Department of Justice shall charge a fee sufficient*
 40 *to cover the cost of processing the request described in this section.*

1 SEC. 2. Section 144.5 is added to the Business and Professions
2 Code, to read:

3 144.5. (a) Notwithstanding any other provision of law, an
4 agency designated in subdivision (b) of Section 144 shall require
5 a licensee who has not previously submitted fingerprints or for
6 whom a record of the submission of fingerprints no longer exists
7 to, as a condition of license renewal, successfully complete a state
8 and federal level criminal offender record information search
9 conducted through the Department of Justice as provided in
10 subdivision (d).

11 (b) (1) A licensee described in subdivision (a) shall, as a
12 condition of license renewal, certify on the renewal application
13 that he or she has successfully completed a state and federal level
14 criminal offender record information search pursuant to subdivision
15 (d).

16 (2) The licensee shall retain for at least three years, as evidence
17 of the certification made pursuant to paragraph (1), either a receipt
18 showing that he or she has electronically transmitted his or her
19 fingerprint images to the Department of Justice or, for those
20 licensees who did not use an electronic fingerprinting system, a
21 receipt evidencing that the licensee's fingerprints were taken.

22 (c) Failure to provide the certification required by subdivision
23 (b) renders an application for renewal incomplete. An agency shall
24 not renew the license until a complete application is submitted.

25 (d) Each agency listed in subdivision (b) of Section 144 shall
26 direct licensees described in subdivision (a) to submit to the
27 Department of Justice fingerprint images and related information
28 required by the Department of Justice for the purpose of obtaining
29 information as to the existence and content of a state or federal
30 criminal record. The Department of Justice shall forward the
31 fingerprint images and related information received to the Federal
32 Bureau of Investigation and request federal criminal history
33 information. The Department of Justice shall compile and
34 disseminate state and federal responses to the agency pursuant to
35 subdivision (p) of Section 11105 of the Penal Code. The agency
36 shall request from the Department of Justice subsequent arrest
37 notification service, pursuant to Section 11105.2 of the Penal Code,
38 for each person who submitted information pursuant to this
39 subdivision. The Department of Justice shall charge a fee sufficient
40 to cover the cost of processing the request described in this section.

1 (e) An agency may waive the requirements of this section if the
2 license is inactive or retired, or if the licensee is actively serving
3 in the military. The agency may not activate an inactive license or
4 return a retired license to full licensure status for a licensee
5 described in subdivision (a) until the licensee has successfully
6 completed a state and federal level criminal offender record
7 information search pursuant to subdivision (d).

8 (f) With respect to licensees that are business entities, each
9 agency listed in subdivision (b) of Section 144 shall, by regulation,
10 determine which owners, officers, directors, shareholders,
11 members, agents, employees, or other natural persons who are
12 representatives of the business entity are required to submit
13 fingerprint images to the Department of Justice and disclose the
14 information on its renewal forms, as required by this section.

15 (g) A licensee who falsely certifies completion of a state and
16 federal level criminal record information search under subdivision
17 (b) may be subject to disciplinary action by his or her licensing
18 agency.

19 (h) This section shall become operative on January 1, 2011.

20 SEC. 3. Section 144.6 is added to the Business and Professions
21 Code, to read:

22 144.6. (a) An agency described in subdivision (b) of Section
23 144 shall require a licensee, as a condition of license renewal, to
24 notify the board on the license renewal form if he or she has been
25 convicted, as defined in Section 490, of a felony or misdemeanor
26 since his or her last renewal, or if this is the licensee's first renewal,
27 since the initial license was issued.

28 (b) The reporting requirement imposed under this section shall
29 apply in addition to any other reporting requirement imposed under
30 this code.